to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

- (f) There is no right to appear personally before the authority head.
- (g) There is no right to appeal any interlocutory ruling by the ALJ.
- (h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.
- (i) If any party demonstrates to the satisfaction of the authority head that additional evidene not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.
- (j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.
- (k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head. At the same time the authority head shall serve the defendant with a statement describing the defendant's right to seek judicial review.
- (1) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under §355.3 is final and is not subject to judicial review.

§ 355.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process

immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

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§355.41 Stay pending appeal.

- (a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.
- (b) No administrative stay is available following a final decision of the authority head.

§ 355.42 Judicial review.

Section 3805 of title 31 U.S. Code authorizes judicial review by an appropriate U.S. District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 355.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31 U.S. Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 355.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under §355.42 or §355.43, or any amount agreed upon in a compromise or settlement under §355.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 355.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 355.46 Compromise or settlement.

- (a) Parties may make offers of compromise or settlement at any time.
- (b) The reviewing official has the exclusive authority to compromise or

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settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

- (c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under §355.42 or during the pendency of any action to collect penalties and assessments under §355.43.
- (d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under §355.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.
- (e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.
- (f) Any compromise or settlement must be in writing.

§355.47 Limitations.

- (a) The notice of hearing with respect to a claim or statement must be served in the manner specified in §355.8 within 6 years after the date on which such claim or statement is made.
- (b) If the defendant fails to file a timely answer, service of a notice under §355.10(b) shall be deemed a notice of hearing for purposes of this section.
- (c) The statute of limitations may be extended by agreement of the parties.

PART 356—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.

356.1 Introduction.

356.2 Program Fraud Civil Remedies Act of 1986.

356.3 False claims.

AUTHORITY: 28 U.S.C. 2461; 31 U.S.C. 3729, 3809.

SOURCE: 62 FR 3791, Jan. 27, 1997, unless otherwise noted.

§356.1 Introduction.

- (a) The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty.
- (b) The ratio of the Consumer Price Index for the month of June of the calendar year preceding this adjustment to the Consumer Price Index for the month of June of the calendar year in which the amount of civil monetary penalties provided for under the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812) and the false claims provisions at 31 U.S.C. 3729(a) was last set or adjusted, 1986, is 456.7/327.9, which produces the following increases in the penalties after applicable rounding:
- (1) The maximum penalty under the Program Fraud Civil Remedies Act for a false claim or statement would be increased from \$5,000 to \$7,000.
- (2) The maximum and minimum penalties under the false claims provisions at 31 U.S.C. 3729(a) would be increased from \$10,000 to \$14,000 and \$5,000 to \$7,000, respectively.
- (c) Imposition of the increases are limited to actions occurring after the effective date of the increases.
- (d) No increase may exceed ten percent of the penalty or range of penalties, as applicable.

§ 356.2 Program Fraud Civil Remedies Act of 1986.

In the case of penalties assessed under part 355 of this chapter, an additional penalty of \$500 may be assessed for claims or statements made after October 23, 1996.

§ 356.3 False claims.

In the case of penalties assessed under 31 U.S.C. 3729 based on actions occurring after October 23, 1996, the minimum penalty is \$5,500 and the maximum penalty is \$11,000.